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John J. Tmar  
Womble Carlyle Sandridge & Rice, PLLC  
P.O.Box 70357-0037  
Atlanta,, GA 30357-0037

EXAMINER

JANVIER, JEAN D

ART UNIT PAPER NUMBER

3622

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/994,805

Applicant(s)

PUGLIESE ET AL.

Examiner

Jean D Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Response to Arguments***

In reply to the Applicant's remarks, the Examiner will herein examine Groups I and III, that is claims 1-5 and 13-20. Furthermore, the rest of the Applicant's arguments regarding the restriction requirements are not persuasive. Therefore, the restriction is made final and the Applicant is requested to cancel claims 6-12 in a future correspondence.

**DETAILED ACTION**

***Specification***

***Claim Objections***

Claim 4 is objected to under 37 CFR 1.75(c) as being in improper dependent form because of a multiple improper dependent claims. Indeed, claim 4 inadvertently or improperly recites "The method of claims 1, 2 **and** 3". To overcome this claim objection, **the Applicant can simply replace 'and' with -- or--**. See MPEP § 608.01(n). Accordingly, the claim 4 will not be further treated on the merits (i.e. no art rejection).

Claims 1-5, 14-15 and 17 are objected to because of the following informalities:

In claims 1-5, the "token" is treated as a shopper card, identification code or an account number, etc.

In claims 14-15, "showroom" and "showcase" are treated as a --virtual showroom-- or --virtual showcase—

In claim 17, "...said portals" should apparently be ---...said portal--.

Appropriate correction is required.

#### Status of the claims

Claims 1-5 and 13-20 are currently pending in the Instant Application and claims 6-12 are withdrawn after a restriction requirement and an election with traverse.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5 and 13-20 are rejected under 35 USC 102(e) as being anticipated by Tavor, US Patent 6, 070, 149A.

As per claims 1-3, 5 and 13-20, Tavor discloses a method of and a system for enabling users over a network or over the WWW to interact with an interactive sales representative system for providing sales guidance. The system offers the user products, services, or ideas (the "products"), via a medium or portal, according to parameters (profile data) collected from the user. The system guides the customer to retrieve or select the desired products. If the system does not have a product matching the customer's requirements, then preferably it will operate a mechanism for suggesting alternate products, which are the closest to the customer's requirements. The system will execute various sales tools and techniques to help and assist the customer and to convince the customer to purchase a product. By guiding the customer to the target product, the system will shorten the search cycle for the customer as well as find better matched products.

The system will provide market advisory, suggest, recommend, discuss (in written form and optionally voice form using an audio component coupled to the portal or medium or platform used to disseminate or provide the product or service information during the sale presentation or session), comment, advise the customer regarding the products. The system might advise the customer in any other aspects as well (such as providing personal feedback). **The system is also configured to add graphics, animation, 3D, movie clips, voice and other effects to make the session enjoyable and more real for the customer during the sale presentation (dynamically displaying images of items in response to the customer's**

**selection**). The system is also capable of executing various tools and techniques to improve its sales capabilities and bring better sales results (See abstract).

In general, the present system relates to virtual sales personnel, and more particularly to software, which is capable of assisting a computer user to complete an on-line sales transaction in a substantially similar manner as a human sales representative (the customer orders one or more products online or the Internet using the aid of the virtual sales personnel via a portal or medium and using a local web browser- col. 1: 5-9).

See Col. 1: 65 to col. 3: 2.

The system accompanies the customer from the initial stage of requesting an Internet sales representative via the portal or medium, during a session or interaction, through the stage of determining the needs of the customer (the customer's interest, guiding the customer to the desired products while maintaining a product and market advisory, and generally suggesting or recommending, and discussing or commenting with regard to the product through the purchasing process. The system follows a line of reasoning in order to sell to the end user. The system optionally continues through the credit card charge process with a secure mechanism for charging the card (the customer's credit card or token is used in multiple transactions-Col. 3: 31-42).

The system also features a "Detection engine" mechanism to recognize characteristics of the user and to modify the session from user to another user according to the individual (according to the user's profile stored in the system database). The "Detection engine" or "detection mechanism" is adapted to sense **certain behavior patterns** by the user, such as:

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curious about more information, serious customer, not a serious customer, and the like (determining shopping criteria, creating a shopper's profile and selecting items for display based on the shopper's profile or updating an identified user's profile with transaction or interaction data, wherein the user is being identified via an account number, code or via the use of a credit card or simply via a token-Col. 3: 43-49).

The system, following a signal from the "Detection engine" optionally and preferably writes **or records** to a dedicated log file **the email addresses of all the users (customers' tokens)**, who the "Detection engine" found to be interesting or important (col. 3: 59-62).

Col. 3: 6 to col. 4: 9.

When a product is recommended to the customer subsequent to a sales presentation, then the purchase is made by the user or customer by clicking the "purchase" button of GUI (block 22, see FIG. 1), thereby launching the "Purchase Mechanism" module (Block 50-Col. 6: 10-16).

A typical interaction or session between a user and a sales representative via a chat room (portal) is also disclosed by Tavor. Here, both the user and the sales rep. are identified by their respective names and IP addresses printed in the chat interface or page. Hidden messages are being displayed within the chat room to the user. It should further be understood that the image of a car shown in a chat room or chat page during a sales presentation is equivalent to displaying the car in an electronic or virtual showroom or showcase (col. 37: 18-67; col. 38: 1 to col. 39: 42).

In another embodiment, related HTML pages include a Header Page with the sales rep.'s name, a Chat History page (reflecting the interaction between the sales rep. and the user since the

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page was initiated), a Message page (the active text area for writing text information therein and a Purchase History page. The Purchase History page, for instance, contains the list of options and products chosen by the user in a current session, before the chatter was entered (chat support software). This list aids the sales representative to move or gear the chat in the right direction. The page is built from the data of a file that was previously prepared by the Detection Engine (FIG. 20, Block 230). The name of the file is obtained by the chatter from the initial form (the form which launches the chatter- col. 40: 41 to col. 41: 4).

During an interaction, a user may be given the choice of pressing a "purchase" button and a "Sounds interesting" button. If the former action or the "purchase" button is activated by the user, then the information about purchasing is written to the virtual memory (storing the identified user's transaction data in a virtual memory or database-Col. 49: 6-10).

In a further embodiment, Built in arithmetic functions, allows the user to: sum up all of the purchased products in the session ("SumUpAll" (FIG. 7, Block 98); sum up the purchased products in a current department ("SumUpDepartment" (FIG. 7, Block 98)); sum up all of the products of a given type ("SumUpProduct" (FIG. 7, Block 98)); give a percentage discount ("Sys.sub. -- PercentsDiscount" (FIG. 7, Block 98)); and give a coupon discount ("Sys.sub. -- Coupon Discount" (FIG. 7, Block 98, fig. 14; col. 14: 1-9). In other words, a purchase module computes or sum up a discount amount (purchase award) based on the total transaction amount. A sales promotion or a purchase award is conveyed to the user during a sales presentation or negotiation between the sales rep. and the user where, for example, the sales trying to convince the user to buy a particular product, such as a different car, offers or guarantees a 78% discount to the user if he purchases the car before April 6, 1998 (col. 8: 54-65).



***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5 and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Girouard, US Patent 4, 982, 346.

As per claims 1-3, 5 and 13-20, Girouard discloses a computer system for providing an advertising and promotional campaigns. The computer system includes a magnetic stripe card reader, bar code reader, monitor, printer, keyboard, and touch-screen input device. Software executing on the computer manages the operations of these devices. The system displays advertisements and product or store locator maps, dispenses coupons, accepts product orders, and manages customer surveys (providing a portal to a user to access the computer over a network or mall network). Customers are attracted to the system by promotional sweepstakes, thereby enhancing the effectiveness of the advertising and surveys. A frequent shopper campaign also attracts customers to the system (see abstract).

In general, Girouard discloses an automating advertising and promotional campaigns. The computer system includes a magnetic stripe card reader, bar code reader, monitor, printer, keyboard, and touch-screen input device. Software executing on the computer manages the operations of these devices. The present system provides means for displaying advertisements on the monitor. The software also comprises means for attracting customers to the computer system, thus enhancing the effectiveness of the advertisements. The means for attracting customers is comprised of means for managing promotional sweepstakes, displaying product or store locator maps, dispensing coupons, accepting product orders, and managing customer surveys. The computer system (portal or kiosk) can communicate with a centralized site, thereby providing centralized control of remote installations. Files, programs, and other data may be electronically transmitted from the central site to the computer system. In addition, player logs, consumer surveys, enrollment files, product ordering files, in error logs, and other data may be electronically transmitted from the computer system to the central site (col. 1: 20-44).

Additionally, Girouard discloses an automated advertising and promotion system, comprising input means for accepting commands and data, including customer identifications (tokens), from customers via kiosks or portals, display means for selectively presenting data to the customers, control program means, executed by a computer (kiosk) operatively connected to the input means and display means for managing the input means and display means, the control program means having advertising means for presenting a plurality of independent advertisements on the display means and sweepstakes means, integrated with the advertising means, for managing a promotional sweepstakes, wherein the customer identifications accepted by the input means are used to identify sweepstakes participants, and wherein indications are

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presented on the display means when the sweepstakes participants win prizes, the promotional sweepstakes thereby enhancing the effectiveness of the advertisements presented on the display means by attracting customers into using the system. The system also incorporates a frequent shopper means for encouraging the customers or participants to use the system, which further comprises acceptance means for accepting a frequent shopper identification via the input means (accepting a frequent shopper card or token via a card input reader), retrieval means for retrieving a customer record from a database, the customer record corresponding to the customer identification accepted by the input means, the customer record including the customer identification, a frequent shopper field and demographic data, update means for updating the frequent shopper field in the customer record in response to accepting the frequent shopper identification and award means for awarding prizes to the sweepstakes participant based on a comparison by the control program means of the updates of the frequent shopper field and a schedule stored in the computer means. Finally, the system further comprises demographic means, integrated with the sweepstakes means, for gathering demographic data from the sweepstakes participant via the portal or kiosk (mall terminal)

See claims 1-3 and 7 of the current reference.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean D Janvier whose telephone number is 571-272-6719. The examiner can normally be reached on Monday-Thur 9:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. P Stamber can be reached on 571-272-6724.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jean D Janvier  
Examiner  
Art Unit 3622

04/25/05

JDJ

JEAN D. JANVIER  
PRIMARY EXAMINER  
*Jean D. Janvier*